

Appl. No. 10/800,076
Chan et al.
Dated: December 28, 2005
Reply to Office Action of
September 30, 2005

REMARKS

Claims 1-18 were originally filed in the present application and are currently pending and at issue. Of these claims, Claims 1-18 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Action contends that the term "entirely" in Claims 1, 8 and 14, added by previous amendment, is unsupported by the original disclosure.

In the interest of furthering the prosecution of the present application, Applicants have elected to amend the pending claims rather than traverse the rejection. Accordingly, Claims 1, 8 and 14 have been amended to delete the term "entirely" and to add language which highlights the location of the closure member within the spout when the container is in an open position. All other claims remain as originally filed or as previously presented.

Specifically, Claims 1, 8 and 14 have been amended to clarify that the closure member is "disposed within" the spout and is "maintained within" the spout when in the open position. This language is well-supported by the illustrations of FIGS. 3 and 4 showing the closure member within the spout in both an open and closed position. Further, support in the specification can be found on page 2, line 4, which references "closure member disposed within the spout. . ." and line 16, stating "disposing a closure member within the spout. . . ."

U.S. Patent No. 1,266,396 to Brown (hereinafter "Brown") discloses a container 1 having a trigger mechanism 11 for opening and closing a pour spout 2. By pulling the trigger mechanism 11 upward toward the handle 3, as shown in Fig. 1 of Brown, a series of arms and

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links (7-10) push downward on valve 6 which compresses spring 13 to ultimately unseat valve 21 from seat 22. The valve 21, which protrudes into spout 2 a very small amount while positioned at seat 22 in a closed position, moves out of spout 2 to an open position, as shown in Fig. 2. Therefore, the valve 21 of Brown is neither "disposed within" spout 2, nor is it "maintained within" spout 2 when the spout is opened, as required by amended Claims 1, 8 and 14.

Accordingly, Claims 1, 8 and 14 distinguish over Brown and should be in condition for allowance. Likewise, Claims 2-7, 9-13 and 15-18 depend from one of the independent claims, merely adding additional limitations to the allowable subject matter, and should also be considered allowable.

Applicants and the undersigned attorney would like to thank Examiner Kaufman for the courtesy of the telephonic interview on December 19, 2005, and for his assistance of time and effort in prosecuting the present case. Through the interview, Examiner Kaufman has indicated that all claims, as currently amended, would be allowable.

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CONCLUSION

All pending claims have been initially rejected in the current Office Action under 35 U.S.C. § 112. Claims 1, 8, and 14 have been amended to address this rejection. No new matter has been added. Applicants contend that all claims distinguish over the cited references and are now in condition for allowance. Reconsideration of all pending claims is earnestly sought.

Should any formalities exist which can be addressed by an Examiner's Amendment, the Examiner is requested to contact the undersigned by phone to expedite the prosecution and eventual allowance of the present application.

Respectfully submitted,

By 

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